



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

DOD: July 27, 1997		FRANK J. VOLPA , Executor, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Petition was not verified. Probate Code §1021. 2. First Amended Petition for Final Distribution filed on 9/18/2007 stated that federal and California estate taxes had been filed and that no federal or California estate tax was due because of the charitable gifts. The Petition also stated that the personal and fiduciary tax returns had been filed and 1997 through 2006. The returns for 2007 were not due yet. No income taxes will be due on the final return. Petition is not clear on the unforeseen tax issues considering the petition alleged all taxed were paid and no taxes were due. In addition the Order on Final Distribution included a closing reserve of \$3,000.00. The court may require more information regarding the tax issues. 3. Court may require receipts for what has been distributed to the charities pursuant to the order and a breakdown of those assets in the order that have not been distributed and therefore should still be in the possession of the executor.
		Petitioner states he was originally represented by Ruth E. Ratzlaff.	
Cont. from		Petitioner states he is in doubt about the course of action to be taken regarding the distribution of the estate because while the order for distribution was entered on October 9, 2007, Petitioner has only distributed a portion of the assets.	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input type="checkbox"/>	Verified	X	
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
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<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
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<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order	<p>The Order called for distribution to Petitioner and two charities. Petitioner paid his attorney in full and has received all the fees and assets that were to be distributed to him. Pursuant to the Order Petitioner has distributed cash of \$79,131.72 to the University of Montana and cash of \$76,751.16 to the Sigma Chi Foundation. Petitioner has also distributed the Series EE Bonds that were to be distributed to those organizations.</p> <p>Petitioner states he has been working through unforeseen tax issues with Raymond Love, a professional fiduciary who apparently assisted Mr. Volpa at least since July 2000. Based on the advice of Mr. Love, Petitioner did not distribute the remaining assets of the estate to the University of Montana nor to the Sigma Chi Foundation, consisting of several mutual funds and IRAs. Mr. Love is now deceased.</p> <p>Petitioner has engaged the services of Wild, Carter and Tipton to assist him with resolution of any tax issues and to complete final distribution of the assets (which may require and accounting of activities since October 2007 and a revised distribution order.</p>	
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
Please see additional page			
Reviewed by: KT			
Reviewed on: 9/27/13			
Updates:			
Recommendation:			
File 1 – Hanson			

Attorneys at Wild, Carter and Tipton have already spent at least 5 hours in review and analysis of the file, meetings with the attorney and communications with the financial institutions. Wild, Carter and Tipton would like assurances that they will be compensated from the estate for their efforts.

Accordingly Petitioner is requesting an instruction from the Court that it is appropriate to engage the services of Wild, Carter and Tipton to resolve the issues, to obtain a revised order of distribution (if necessary) and that on petition to this court, Wild, Carter and Tipton will be entitled to reasonable compensation from the estate as extraordinary compensation. Petitioner is also requesting an instruction that he may engage the services of a CPS, if necessary, for assistance with tax and accounting issues, as required, and that any associated fees will be compensable from the estate as an expense of administration. Petitioner is also requesting an instruction that his efforts to resolve the issues will be compensable as extraordinary compensation from the estate.

Petitioner prays that:

1. This court authorize and instruct Petitioner that efforts of Wild, Carter and Tipton will be compensable as extraordinary effort on behalf of the estate;
2. This court authorize and instruct Petitioner that the efforts of the services of a CA, if required, will be compensable from the estate as an expense of administration.
3. This court authorize and instruct Petitioner that his efforts will be compensable as extraordinary efforts on behalf of the estate on petition to the court.

NEEDS/PROBLEMS/COMMENTS (cont.):

4. Since there was an order for distribution it is unclear why now 6 years later the estate should be liable for the attorney, accountant fees and additional compensation to the personal Representative. It appears that if the personal representative was having unforeseen issues he should have timely notified the court. Probate Code § 11605 and § 11705 states when the court order becomes final it binds and is conclusive as to the rights of all interested persons. Probate Code § 11750 states the personal representative is responsible for distribution of the property in the estate in compliance with the terms of the order for distribution. The judgment becomes final 60 days after entry of the order or 180 days after entry of the judgment. (CCP 1908(a)(1) and California Rules of Court, Rule 8.104.) It appears that the court cannot revise the distribution order once it has become final.

NEEDS/PROBLEMS/COMMENTS (cont.):

5. It appears that the petitioner should be ordered to pay the charities what they were ordered in the final distribution order made in October 2007 and should be personally liable for any tax issues, attorney fees or losses to the charities for not distributing the assets when ordered by the court. Probate Code §9601 (a) states if a personal representative breaches a fiduciary duty, the personal representative is chargeable with any of the following that is appropriate under the circumstances: (1) Any loss or depreciation in value of the decedent's estate resulting from the breach of duty, with interest. (2) Any profit that would have accrued to the decedent's estate if the loss of profit is a result of the breach of duty.

**First and Final Account and Report of Successor Trustee, Petition for Allowance of
 Compensation to Successor Trustee and Her Attorney, and for Termination of Trust**

		PUBLIC GUARDIAN , successor Trustee, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Petition was not signed by the attorney. 2. Petition does not include Exhibit "B" statement of services of Trustee. 3. Need Notice of Hearing. 4. Need proof of service of the Notice of Hearing on: a. Margaret Sant Agata (lifetime beneficiary) b. Michelle Cadenhead (remainder beneficiary)
		Account period: 6/1/10 – 7/11/13	
Cont. from		Accounting - \$51,640.45	
<input type="checkbox"/>	Aff.Sub.Wit.	Beginning POH - \$50,000.00	
<input checked="" type="checkbox"/>	Verified	Ending POH - \$ 1,190.33	
<input type="checkbox"/>	Inventory	Trustee - \$3,652.88	
<input type="checkbox"/>	PTC	Attorney - \$2,500.00	
<input type="checkbox"/>	Not.Cred.	Bond - \$75.00 (o.k.)	
<input type="checkbox"/>	Notice of Hrg	Petitioner states the only asset of the trust was real property. Because there were no assets to pay the mortgage, homeowner's dues and insurance, the property was foreclosed upon. Since there is no trust corpus, petitioner requests that the trust be terminated.	
<input type="checkbox"/>	Aff.Mail		
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<input type="checkbox"/>	CI Report	Petitioner pray for an Order: 1. Approving, allowing and settling the first and final account and report of Trustee; 2. Authorizing petitioner \$3,652.88 and her attorney \$2,500.00 as compensation for their services; 3. Authorizing the estate to pay the bond fee; 4. Terminating the Trust.	
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
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<input type="checkbox"/>	Citation	Reviewed by: KT Reviewed on: 9/27/13 Updates: Recommendation: File 2 – Agata	
<input type="checkbox"/>	FTB Notice		

(1) First and Final Account and Report of Administrator with Will Annexed and (2)
 Petition for Its Settlement for Allowance of Compensation for Ordinary and
 Extraordinary Services, and for (3) Final Distribution

DOD: 3-3-12		<p>THERESA F. BARNARD, Administrator with Will Annexed, with Limited IAEA and bond of \$162,500.00, is Petitioner.</p> <p>Account period: Not stated</p> <p>Accounting: \$361,553.64 Beginning POH: \$311,653.48 Ending POH: \$319,745.90 (\$175,757.10 cash plus investment account)</p> <p>Administrator (Statutory): Court Order 6-12-12 states the Administrator is not entitled to receive compensation for ordinary or extraordinary services as administrator of the estate.</p> <p>Administrator (Reimburse costs): \$9,649.13 (Declaration at Exhibit H includes mileage of 137.6 miles @ 55.5 cents/mile plus costs and expenses incurred as described. See Declaration.)</p> <p>Attorney (Statutory): \$10,231.00</p> <p>Attorney (Extraordinary): \$1,000.00 (per local rule, for court-confirmed sale of real property)</p> <p>(Note: Attorney was previously paid \$3,770.00 for <u>unrelated</u> extraordinary legal services per Court Order 1-9-13.)</p> <p>Costs: \$1,368.03 (filing, publication, certified letters, recording, appraisals)</p> <p>Closing: \$5,000.00</p> <p>Distribution pursuant to Decedent's will:</p> <p>Glen Maura Frazer: \$74,254.47 cash plus a one-half interest in the investment account</p> <p>Theresa F. Barnard: \$74,254.47 cash plus a one-half interest in the investment account</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need written consent of Glen Maura Frazer for receipt of investment account in undivided interests. Local Rule 7.12.3.</p>
<input checked="" type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input checked="" type="checkbox"/>	Inventory		
<input checked="" type="checkbox"/>	PTC		
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<input checked="" type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
<input checked="" type="checkbox"/>	FTB Notice		

Reviewed by: skc
Reviewed on: 9-30-13
Updates:
Recommendation:
File 3 – MacDonell

(1) First and Final Report of Status of Administration, Waiver of Accounting, (2) Petition for Settlement Thereof, for (3) Allowance of Statutory Attorney's Compensation, for Reimbursement of Costs Advanced, and for (4) Final Distribution

DOD: 4-6-12		BARBARA M. BROWN , Surviving Spouse and Executor with Full IAEA without bond, is Petitioner. Accounting is waived I&A: \$212,511.90 POH: \$212,511.90 (retirement acct) Executor (Statutory): Not addressed Attorney (Statutory): \$7,250.24 Costs: \$1,280.00 (filing, publication, lodging will, certified copies) Distribution pursuant to Decedent's will: Barbara M. Brown: Entire estate	NEEDS/PROBLEMS/COMMENTS:	
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input checked="" type="checkbox"/>	Inventory			
<input checked="" type="checkbox"/>	PTC			
<input checked="" type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
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<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
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<input checked="" type="checkbox"/>	Order			
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<input type="checkbox"/>	Status Rpt			
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<input type="checkbox"/>	Citation			
<input checked="" type="checkbox"/>	FTB Notice			
Reviewed by: skc				
Reviewed on: 9-30-13				
Updates:				
Recommendation: SUBMITTED				
File 4 – Brown				

(1) First and Final Account and Report of Executor and (2) Petition for Its Settlement, for (3) Allowance of Compensation for Ordinary and Extraordinary Services, and for (4) Final Distribution

DOD: 11/15/2012		DARRIN S. SMITH , Executor, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 11/15/12 – 8/26/13	
		Accounting - \$223,066.83	
		Beginning POH - \$220,612.97	
		Ending POH - \$110,909.76	
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
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<input checked="" type="checkbox"/>	Inventory		
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<input type="checkbox"/>	Video Receipt		
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<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input checked="" type="checkbox"/>	FTB Notice		
		Executor - \$7,401.00 (statutory)	
		Executor costs - \$16,860.60 (per itemization for estate expenses prior to funds being available.)	
		Attorney - \$7,401.00 (statutory)	
		Attorney X/O - \$1,264.50 (for sale of real property, 4 attorney hrs @ \$300/hr and .90 paralegal hours @ \$105/hr)	
		Closing - \$3,000.00	
		Distribution, pursuant to Decedent's Will, is to:	
		Darin Smith - \$22,494.79	
		Dalton Smith - \$22,494.79	
		Devon Smith - \$22,494.79	
		Central Valley Conference of Seventh Day Adventists - \$3,749.13	
		Central Valley Conference of Seventh Day Adventists – Fresno Central - \$2,999.31	
		Central Valley Conference of Seventh Day Adventists- Fresno Adventist Academy - \$749.83	
Reviewed by: KT			
Reviewed on: 9/30/13			
Updates:			
Recommendation:			
File 5 – Smith			

Atty
Atty

Burnside, Leigh W. (for Judith Hartman – Former Trustee – Petitioner)
Hastrup, John (for Objectors)

**Petition for Settlement of First and Final Account and Report of Trustee; for
Approval of Trustee's Fees and Attorney's Fees and Costs; and for Approval of
Payment of Professional Services [Prob. C. 16063, 17200, CRC Rule 7.902]**

DOD: 7-19-12		JUDITH HARTMAN , Former Trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 7-29-13, 8-22-13</u> Minute Order 8-22-13: Ms. Burnside requests an opportunity to reply to the objections filed by Mr. Hastrup. Matter continued to 10/3/13. Ms. Burnside is directed to file her reply by 9/5/13. Continued to 10/3/13. As of 9-27-13, nothing further has been filed. 1. Petitioner provides the names and addresses of the trust beneficiaries, but does not state that these are all of the persons <u>entitled to notice</u> . Need clarification. Probate Code §§ 17201, 17203. Reviewed by: skc Reviewed on: 9-27-13 Updates: Recommendation: File 6 – Rendino
Cont. from 072913, 082213		Petitioner states she acted as successor trustee for the period 7-19-12 (date of death of Danny Rendino) until her resignation on 12-12-12.	
	Aff.Sub.Wit.	The current trustee is Bruce D. Bickel .	
✓	Verified	Account period: 7-19-12 through 12-31-12 Accounting: \$593,783.81 Beginning POH: \$586,980.41 Ending POH: \$566,130.61 (carry value) (\$46,115.40 cash plus stocks, vehicles, personal property, real property) (total market value: \$654,679.40)	
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	W	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
✓	Objections	Trustee: \$5,280.00 (for 96 hours @ \$55/hr, per itemized timesheet attached) Attorney: \$3,240.00 (\$2,405.00 plus \$835.00 costs, per separate declaration to Petitioner's current attorneys, Dowling Aaron Incorporated)	
	Video Receipt		
	CI Report		
	9202		
✓	Order	Attorney: \$4,535.25 was paid to Wright & Wright, Petitioner's former attorney, without court order pursuant to the terms of the trust and Probate Code § 1064(a)(3).	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice	Petitioner states there is evidence that the deceased settlor either gifted or loaned Nick M. Rendino, Jr., the sum of \$9,000.00, but there was insufficient documentation to determine the nature of the disbursements. Petitioner states Nick M. Rendino, Jr., may owe the trust estate the principal sum of \$9,000.00, but Petitioner has not included this amount as a receivable or asset due to lack of documentation. SEE ADDITIONAL PAGES	

Page 2**Petitioner prays for judgment:**

1. Settling and allowing the account as filed;
2. Ratifying, confirming and approving all acts and transactions of Petitioner as trustee;
3. That the current trustee Bruce Bickel be authorized and directed to pay Petitioner \$5,280.00 for her services rendered.
4. That the current trustee Bruce Bickel be authorized and directed to pay the law firm of Dowling Aaron Incorporated \$3,240.00 as set forth above; and
5. For such other orders as the Court may deem proper.

Beneficiaries Kimberly J. Rendino, Nick M. Rendino, Jr., and Gregg D. Rendino filed Objections on 8-16-13. See additional pages.

Objectors state they are the beneficiaries currently entitled to distribution and have standing to object. Objectors object to the allegation that Nick M. Rendino, Jr., may owe the trust \$9,000.00. Nick M. Rendino, Jr., was not indebted to the settlor at the time of his death.

Objectors state that during the account period, Petitioner paid \$3,188.71 to Super Dons Chuljian as shown in the account on 11-13-12 for "parts and labor on 1960 Chevrolet Impala." Objectors object to this disbursement on the basis of lack of information as to the parts supplied and labor provided. Further, the value of the automobile did not increase after the repairs were effected per Schedule H.

Objectors object to the disbursement of \$4,535.25 to Petitioner's former attorneys Wright & Wright on the basis of lack of information as to the services rendered.

Objectors object to the proposed payment of \$5,280.00 to Petitioner in trustee fees and allege that this reflects an excessive rate of pay for a lay trustee; that she resigned her position in the middle of negotiations for the sale of the primary asset of the trust, causing confusion and additional or duplicative expense to the trust in the installation of a new trustee to complete the sale, and that, at present, Objectors are unable to evaluate the actual benefit obtained from the services of the former trustee in view of the fact that the administration of the trust is not yet concluded.

Objectors request the petition be denied.

DOD: 2-4-13			JANICE NORMART , Executor with Full IAEA without bond, is Petitioner. Accounting is waived I&A: \$1,730,284.80 POH: \$1,712,137.20 Executor (Statutory): \$30,121.37 Attorney (Statutory): \$30,121.37 Costs: \$2,167.79 (lodge wills, filing, certified copies, publication, appraisal) Closing: \$720.00 Distribution pursuant to Decedent's will: Janice Normart: \$274,834.45 Jennifer Normart Corgiat Smith: \$274,834.45 Gregory Normart: \$274,834.45 Ara (Corky) Normart: \$274,834.45 Roseanne Guaglianone: \$274,834.45 Karen Derderian: \$274,834.45	NEEDS/PROBLEMS/COMMENTS: 1. The proposed order distributes Roseanne Guaglianone's share "c/o" Hemisphere Furniture. The Court may require clarification or revised order reflecting direct distribution.
	Aff.Sub.Wit.			
✓	Verified			
✓	Inventory			
✓	PTC			
✓	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail	w/o		
	Aff.Pub.			
	Sp.Ntc.			
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	Conf. Screen			
✓	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
✓	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
✓	FTB Notice			
			Reviewed by: skc	
			Reviewed on: 9-30-13	
			Updates:	
			Recommendation:	
			File 7 – Gross	

Atty

Forry, Craig (of Mission Hills, for Petitioners Virginia Chenier, Leslie Bartimore, Lori Johnson and Lynn Feathareston

Atty

Standard, Donna M. (for John Welsh, Trustee)

Amended Petition to 1) Compel Accounting; 2) Suspend and Remove John M. Welsh as Trustee of the Bartimore Family Trust; 3) Compel Distribution; 4) Conversion; 5) Constructive Trust; 6) Breach of Fiduciary Duty; and 7) Return of Property to Trust [Prob. C. 859, 15642, 17000, 17200; Civ. C. 2224 & 3294]

		VIRGINIA CHENIER, LESLIE BARTIMOR, LORI JOHNSON and LYNN FEATHERSTON, beneficiaries, are petitioners.	NEEDS/PROBLEMS/COMMENTS: Continued from 8/28/2013. Minute Order states Mr. Forry requests a continuance to consider objections. Parties stipulate in open court that Mr. Forry may deposit the checks without any further prejudice to the Petitioner's claims.
		Petitioners states Grantors and original Co-Trustees, Charlotte V. Bartimore and Leonard D. Bartimore , executed the Trust on 10/28/2008. Grantor Charlotte V. Bartimore died on 2/1/2011 and Grantor Leonard D. Bartimore died on 9/5/2009.	
Cont. from 080113, 082813		Charlotte V. Bartimore signed the First Amended and Restated Trust Agreement on 8/31/2010.	
	Aff.Sub.Wit.		
✓	Verified	John M. Welsh is the current Trustee of the Trust.	
	Inventory		
	PTC	Pursuant to Paragraph 3.3.2(b), page 3 of the Trust, the trust was to divide the trust into two equal shares. 50% of the estate was to be allocated to the issue of Charlotte and the remaining 50% was to be allocated to the issue of Leonard.	
	Not.Cred.		
✓	Notice of Hrg	Each of the Petitioners are the issue of Settlor Charlotte V. Bartimore, and they are each entitled to an equal share with John Welsh.	
✓	Aff.Mail		
	Aff.Pub.	On 5/26/2011 Petitioner Lynn Featherston sent a letter requesting that John M. Welsh provide and accounting as required by Probate Code §16063.	
	Sp.Ntc.		
	Pers.Serv.	Please see additional page	
	Conf. Screen		
	Letters	Reviewed by: KT	
	Duties/Supp		
✓	Objections	Reviewed on: 9/27/2013	
	Video Receipt	Updates:	
	CI Report	Recommendation:	
	9202	File 8 – Bartimore	
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

On 2/5/2013, Petitioner's attorney sent a letter to John Welsh requesting he provide an accounting as required by Probate Code §16063.

On 2/20/2013, Petitioner's attorney sent an additional letter to John Welsh requesting that he provide an accounting.

After representing that he would provide an accounting, John Welsh has failed and refused to provide an accounting, and no accounting has ever been provided to Petitioners.

Petitioners believe that pursuant to Probate Code §15642 John Welsh's refusal to provide an accounting to Petitioners is a breach of the Trust. Furthermore, John Welsh's conduct demonstrates recalcitrance with regards to dealing with Petitioners, and renders John Welsh unfit to act as Trustee.

John Welsh while wrongfully acting as Trustee, and controlling the Trust, failed to comply with the terms of the Trust to distribute equal shares of the Trust estate to Petitioners.

Petitioners allege that John Welsh has failed to distribute to them their rightful shares of the Trust estate. Such failure constitutes a wrongful act made in bad faith to deprive the proper beneficiaries of the property in the Trust estate. As such John Welsh should be compelled to provide an accounting of the Trust estate at the time of Charlotte's death, and should be compelled to pay double damages as a consequence of such a wrongful appropriation of the Trust estate.

A Constructive Trust should be imposed on the real property of John Welsh located at 46910 Dunlap Road, Miramonte, California 93641 under Civil Code §2224. Petitioners allege that John Welsh has used a portion of the Trust estate to maintain, repair, improve or otherwise benefit the Miramonte property sufficient to support a constructive trust being imposed on the Miramonte property for the benefit of Petitioners.

A Constructive Trust should also be imposed on Bank of America Account no. 23416-31370 and Wells Fargo Bank Account no. 10110221047174 that have been used by John Welsh in the handling of the Trust Estate. Petitioners believe John Welsh has used those accounts for his personal benefit sufficient to support a constructive trust being imposed on them for the benefit of Petitioners.

Previous paragraphs allege wrongful acts which are a breach of the Trust, a mistake, accident, or outright fraud. Because John Welsh has deprived Petitioners of their rightful distributions and property, John Welsh should be deemed to be holding said property as Constructive Trustee for Petitioners.

John Walsh's acts of depriving Petitioners of their rightful property and withholding all authorized distributions constitutes the tort of conversion.

John Welsh must pay double damages for the wrongful appropriation of Trust assets in clear violation of the Trust.

Pursuant to Civil Code §3294, an award of punitive damages against John Welsh should be awarded to Petitioners as a result of John Welsh's acts of fraud, oppression, or malice arising out of his breach of fiduciary duty as acting as Trustee and as a result of the fraudulent concealment and conversion of Trust assets.

Please see additional page

Wherefore, Petitioners pray for an Order of this Court:

1. Compelling John Welsh to render an account for the Trustee since the date of Charlotte V. Bartimore's death on 2/1/2011 through the present;
2. Removing John Welsh as successor Trustee of the Trust, or in the alternative, suspending his powers as Trustee and delivering the Trust estate to the Successor Trustee Dale R. Welsh, pending the filing of said account with this Court;
3. Compelling the distribution of Petitioners' share of the Trust estate as allocated to them under the Trust;
4. Surcharging John Welsh at the legal rate for improper payments made out of the Trust assets and for the lost value of the Trust as a consequence of their failure to make the Trust productive for beneficiaries;
5. Imposing a Constructive Trust over the wrongfully held assets by John Welsh, including but not limited to, the real property located at 46910 Dunlap Road, Miramonte, California 93641, in an amount determined at trial;
6. For double damages pursuant to Probate Code §859 in an amount to be determined at trial;
7. For punitive damages against John Welsh, in an amount determined at trial; and
8. For such other and further Orders and relief as the Court deems just and proper.

Successor Trustee's Opposition to Petitioner's Amended Petition to Compel Accounting, Suspend and Remove John M. Welsh as Trustee and Answer to Allegations of Constructive Trust filed by Trustee, John Welsh on 8/26/2013. Trustee John Welsh states filed concurrently is an accounting from February 1, 2011, the date of death of Settlor, Charlotte V. Bartimore, through July 31, 2013.

John Welsh, Successor Trustee, Respondent objects to removal of him as Trustee, as his actions of a late accounting do not rise to the level of a breach of fiduciary duty. Respondent states he provided an initial accounting to the beneficiaries on or about March 15, 2011. The next accounting would have been due after February 1, 2012. John Welsh states he has had several personal crisis situations occur during this period and was unable to provide the accounting due to circumstances out of his control. Both of his eldest children were hospitalized on different occasions with severe injuries and he also has a child with developmental disabilities who resides with him on a full time basis.

John Welsh states he made some distributions, however, due to the uncertainty surrounding the "Mariner Note", which is a not an deed of trust held against the property, payable to the Trust, which is undervalued at this time, John Welsh, Trustee has not terminated the Trust and made full distribution. John Welsh contends that funds may be necessary should it become necessary to foreclose on the note. Should foreclosure become necessary, to would require John Welsh, Trustee, to assume a large first trust deed, which is ahead of the note payable to the Trust and would require the Trust to assume those payments until the property could be sold. Presently the property is valued at \$725,000.00. The First Trust Deed Note is in the amount of \$820,000.00

Please see additional page

Successor Trustee's Opposition to Petitioner's Amended Petition to Compel Accounting, Suspend and Remove John M. Welsh as Trustee and Answer to Allegations of Constructive Trust filed by Trustee, John Welsh on 8/26/2013

(Cont.): John Welsh, Trustee, objects to Petitioner's request to remove him, based on the terms of the Trust, which states any successor Trustee "must be a trust company or bank qualified to do a trust business." No such designation has occurred. If the Court should consider Petitioner's request, which John Welsh, Trustee, does not consent, then the Court only has the power to appoint a trust company or bank qualified to do a trust business. The Court has no authority pursuant to the terms of the trust, to appoint the Alternate Successor Trustee, Dale M. Welsh.

John Welsh, Trustee, contends it is within his discretion to make distributions to administer the terms of the Trust. Because the issue regarding the "Mariner Note", further distribution should not be made at the present time until it is determined the course of action necessary regarding the note held by the Trust. The borrower has only recently finalized his transaction with the First Deed holder and the Successor Trustee was waiting for an appraisal of the property before entering into any final negotiations.

Wherefore, John M. Welsh, Successor Trustee prays:

1. That Petitioner's request to remove Successor Trustee, John Welsh, be denied;
2. That Petitioner take nothing by way of this Amended Petition;
3. For costs of suit and any other relief as may be just and appropriate.

DOD: 05/09/2013		KRIS THOMPSON and NELS BRANDON JENSEN , children, are petitioners.	NEEDS/PROBLEMS/COMMENTS:
		40 days since DOD	Continued from 09/19/2013
		No other proceedings	
Cont. from 091913		I&A - \$110,000.00	The following issues remain:
<input checked="" type="checkbox"/>	Aff.Sub.Wit.	Will dated: ?	
<input checked="" type="checkbox"/>	Verified	Petitioner requests Court determination that decedent's interest in real property located at 1217 Oxford St. Delano, Ca. pass $\frac{3}{4}$ Kris Thompson and $\frac{1}{4}$ to Nels Brandon Jensen.	<ol style="list-style-type: none"> 1. Pursuant to Probate Code §13152(c) a copy of the will must be attached to the petition. 2. Attachment 11 does not provide the decedent's interest in the real property.
<input checked="" type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	w/	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: LV
			Reviewed on: 09/27/2013
			Updates:
			Recommendation:
			File 9 – Jensen

Petition for Approval of a Contingency Fee Agreement, Letters of Administration;
Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 8-15-12		LETTERS OF SPECIAL ADMINISTRATION EXPIRE 10-3-13	NEEDS/PROBLEMS/COMMENTS:
			1. Decedent's parents, as his heirs, consent to appointment of Petitioner as Administrator and waive bond; however, they did not waive notice. Therefore, need proof of service of Notice of Petition to Administer Estate at least 15 days prior to the hearing pursuant to Probate Code §8110.
			2. Need proof of publication pursuant to Probate Code §8120 and Local Rule 7.9.
	Aff.Sub.Wit.		Note: If granted, status hearings will be set as follows:
✓	Verified		
	Inventory		• Friday, 02/07/14 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal <u>and</u>
	PTC		
	Not.Cred.		• Friday, 11/07/14 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution.
	Notice of Hrg	X	
	Aff.Mail	X	Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
	Aff.Pub.	X	
	Sp.Ntc.		Reviewed by: skc
	Pers.Serv.		
	Conf. Screen		Reviewed on: 9-30-13
✓	Letters		
✓	Duties/Supp		Updates:
	Objections		Recommendation:
	Video Receipt		File 10 – Bassi
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

HARPREET BASSI, Brother, is Petitioner and requests appointment as Administrator with Fully IAEA without bond.

All heirs waive bond.

Petitioner also requests that this Court authorize him to enter into a contingency fee agreement with the Frantz Law Group, APLC, to pursue a wrongful death action on behalf of the estate. Decedent died as a result of a motor vehicle accident on 8-15-12. Any recovery will be to his parents, who are his heirs at law. The proposed agreement complies with Probate Code §10811(c) and Business and Professions Code §6147(1); the compensation contemplated is fair, just and reasonable; the agreement is to the advantage of the estate and in the best interests of the estate and the heirs at law. Decedent's parents, as his heirs, each signed declarations in support of the contingency fee agreement.

Note: Ex Parte Order Appointing Special Administrator filed 8-23-13 authorized Petitioner to enter into the contingency fee agreement.

Full IAEA: **need publication**

Decedent died intestate

Residence: Kingsburg, CA

Publication: **need publication**

Estimated value of estate:

Personal property: \$53,065.58

Probate Referee: Steven Diebert

Petition to Determine Succession to Real Property (Prob. C. 13151)

DOD: 06/21/2013		LYNN OKUBO , sister, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		40 days since DOD	
		No other proceedings	
Cont. from			
	Aff.Sub.Wit.	I & A - \$60,000.00	
✓	Verified	Decedent died intestate	
✓	Inventory	Petitioner requests Court determination that decedent's ½ interest in real property located at 3722 N. Thesta Ave. Fresno, Ca. pass to Lynn Okubo pursuant to intestate succession.	
	PTC		
✓	Not.Cred.		
✓	Notice of Hrg	w/	
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: LV
			Reviewed on: 09/27/2013
			Updates: Submitted
			Recommendation:
			File 11 – Nishida

Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 7/13/10		<p>ROBERT ACUNA, JR. and DESIREE ACUNA, were appointed as Co-Administrators without bond on 02/18/11 and Letters were issued on 05/26/11.</p> <p>Inventory and Appraisal was due on 9/26/11.</p> <p>On 3/22/12 the Court signed an order granting attorney Mara Erlach's Motion to be Relieved as Counsel.</p> <p>At the hearing on 3/22/12 the Court set an Order to Show Cause hearing and Ordered both Robert Acuna, Jr. and Desiree Acuna to be present.</p> <p>Order to Show Cause and Minute Order were mailed to both Robert Acuna, Jr. and Desiree Acuna on 3/23/12.</p> <p>Minute order from 4/26/12 indicates there were no appearances. The court removed Robert Acuna Jr., and Desiree Acuna. The court appointed the Public Administrator as administrator without bond.</p> <p>The Public Administrator's Letters were issued on 6/27/12.</p> <p>Status Report filed on 2/28/13 states based on their investigations, the Public Administrator and his Attorney question whether administration of this estate should continue. According to the original petition for probate, there was \$10,000 in personal property and \$100,000 in real property. The only beneficiaries are the former administrators. The only creditors are the State of California Franchise Tax Board (\$2,020.41) and the Fresno County Tax Collector (\$263.99). If the former administrator paid those two creditors, the Public Administrator believes the estate could be closed without approving the acts of the former administrator.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>As of 9/27/13 the following issues remain:</p> <ol style="list-style-type: none"> 1. Need Inventory & Appraisal <u>or</u> current written status report pursuant to Local Rule 7.5, which states: In all matters set for status hearing, verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties. 	
Cont. from 082712, 112612, 010713, 030713, 052313,				
Aff.Sub.Wit.				
Verified				
Inventory				
PTC				
Not.Cred.				
Notice of Hrg				
Aff.Mail				
Aff.Pub.				
Sp.Ntc.				
Pers.Serv.				
Conf. Screen				
Letters				
Duties/Supp				
Objections				
Video Receipt				
CI Report				
9202				
Order				
Aff. Posting				
Status Rpt				
UCCJEA				
Citation				
FTB Notice				
				<p>Reviewed by: KT</p> <p>Reviewed on: 9/27/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 13 - Acuna</p>

DOD: 7/13/10		<p>ROBERT ACUNA, JR. and DESIREE ACUNA, were appointed as Co-Administrators without bond on 02/18/11 and Letters were issued on 05/26/11.</p> <p>Inventory and Appraisal was due on 9/26/11.</p> <p>On 3/22/12 the Court signed an order granting attorney Mara Erlach's Motion to be Relieved as Counsel.</p> <p>At the hearing on 3/22/12 the Court set an Order to Show Cause hearing and Ordered both Robert Acuna, Jr. and Desiree Acuna to be present.</p> <p>Order to Show Cause and Minute Order were mailed to both Robert Acuna, Jr. and Desiree Acuna on 3/23/12.</p> <p>Minute order from 4/26/12 indicates there were no appearances. The court removed Robert Acuna Jr., and Desiree Acuna. The court appointed the Public Administrator as administrator without bond.</p> <p>The Public Administrator's Letters were issued on 6/27/12.</p> <p>Status Report filed on 2/28/13 states based on their investigations, the Public Administrator and his Attorney question whether administration of this estate should continue. According to the original petition for probate, there was 10,000 in personal property and \$100,000 in real property. The only beneficiaries are the former administrators. The only creditors are the State of California Franchise Tax Board (\$2,020.41) and the Fresno County Tax Collector (\$263.99). If the former administrator paid those two creditors, the Public Administrator believes the estate could be closed without approving the acts of the former administrator.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>As of 9/27/13 the following issues remain:</p> <p>2. Need Inventory & Appraisal or current written status report pursuant to Local Rule 7.5, which states: In all matters set for status hearing, verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p> <p>Note to Judge: Per Minute Order for an Order to Show Cause Re: Failure to Appear the Court imposed additional sanctions in the amount of \$500.00 against Robert Acuna, Jr. and Desiree Acuna. The Court noted that each will now owe a total of \$1,000.00 for both cases.</p>
Cont. from 082712, 112612, 010713, 030713, 052313, 081513			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		<p>Reviewed by: KT</p> <p>Reviewed on: 9/27/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 14 - Acuna</p>	

Petition for Appointment of Temporary Conservator of the Person and Estate

Age: 20		GENERAL HEARING 11-4-13	NEEDS/PROBLEMS/COMMENTS:
		ELIZABETH LUJAN , Mother, is Petitioner and requests appointment as Temporary Conservator of the Person and Estate without bond.	Court Investigator advised rights on 9-26-13.
		Estimated value of estate: Not stated	1. Need Notice of Hearing.
<input type="checkbox"/>	Aff.Sub.Wit.	Petitioner states Brandon is unable to care for himself and cannot make decisions on his own. Petitioner has been taking care of him since birth.	2. Need proof of personal service of Notice of Hearing with a copy of this temp petition at least five court days prior to the hearing on Proposed Conservatee Brandon Jordan Rascon.
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory	Court Investigator Jo Ann Morris filed a report on 9-27-13.	3. Need proof of service of Notice of Hearing with a copy of this temp petition at least five court days prior to the hearing on: - Christina Reyes (grandmother)
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		Note to Petitioner: Please remember that for the general hearing on 11-4-13, additional notice is required pursuant to Probate Code §§ 1822 and 1824, including 30 days' notice to CVRC, and personal service of the Citation on the proposed Conservatee.
<input type="checkbox"/>	Notice of Hrg		
<input type="checkbox"/>	Aff.Mail		Note to Petitioner: The Capacity Declaration that was filed on 9-19-13 is blank. For the general hearing on 11-4-13, a completed Capacity Declaration must be filed in support of the request for medical consent powers. See Probate Code §1881 and Mandatory Judicial Council Form GC-335.
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		Reviewed by: skc
<input type="checkbox"/>	Pers.Serv.		
<input checked="" type="checkbox"/>	Conf. Screen		Reviewed on: 9-30-13
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		Updates:
<input type="checkbox"/>	Objections		
<input checked="" type="checkbox"/>	Video Receipt		Recommendation:
<input checked="" type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		File 20 – Rascon
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Petition for Appointment of Temporary Guardian of the Person (Prob. C. 2250)

Age: 3 months		GENERAL HEARING 11-21-13		NEEDS/PROBLEMS/COMMENTS:	
		CINDY MENDEZ , Paternal Grandmother, is Petitioner.		1. Notice of Hearing filed 9-23-13 is deficient. The Court may require amended service due to the following deficiencies: - Notice of Hearing is blank at #1 (does not state what was filed or by whom) - Proof of Personal Service (Page 2) does not indicate that a copy of the temp petition was served with the Notice of Hearing per Probate Code §2250(e). - Proof of Personal Service (Page 2) is incomplete regarding the server's information.	
		Father: SAMUEL FIERRO - Personally served 9-22-13			
		Mother: SAMANTHA DOMINGUEZ - Personally served 9-22-13			
		Paternal Grandfather: Not listed			
		Maternal Grandfather: George Dominguez			
		Maternal Grandmother: Barbara (last name not listed)			
		Siblings: James Hickey, Matthew Mendoza			
		Petitioner states the parents are unfit to care for their daughter. The mother was ordered in another case to drug test but never showed up to test therefore it's a positive test. Petitioner believes the mother is still using and needs to seek help. She doesn't feel she is capable to care for her daughter. The father is in a rehab at this time and unable to care for her until his release in December. Petitioner states Pepper and her siblings were removed from their mother's care by CPS due to her unstable and unhealthy living environment.			
<input type="checkbox"/>	Aff.Sub.Wit.				
<input checked="" type="checkbox"/>	Verified				
<input type="checkbox"/>	Inventory				
<input type="checkbox"/>	PTC				
<input type="checkbox"/>	Not.Cred.				
<input checked="" type="checkbox"/>	Notice of Hrg				
<input type="checkbox"/>	Aff.Mail				
<input type="checkbox"/>	Aff.Pub.				
<input type="checkbox"/>	Sp.Ntc.				
<input checked="" type="checkbox"/>	Pers.Serv.	w/o			
<input checked="" type="checkbox"/>	Conf. Screen				
<input checked="" type="checkbox"/>	Letters				
<input checked="" type="checkbox"/>	Duties/Supp				
<input type="checkbox"/>	Objections				
<input type="checkbox"/>	Video Receipt				
<input type="checkbox"/>	CI Report				
<input type="checkbox"/>	9202				
<input checked="" type="checkbox"/>	Order				
<input type="checkbox"/>	Aff. Posting				
<input type="checkbox"/>	Status Rpt				
<input checked="" type="checkbox"/>	UCCJEA				
<input type="checkbox"/>	Citation				
<input type="checkbox"/>	FTB Notice				
				Reviewed by: skc	
				Reviewed on: 9-30-13	
				Updates:	
				Recommendation:	
				File 21 – Fierro	

Petition for Appointment of Temporary Guardian of the Person (Prob. C. 2250)

Jayda, age 11		GENERAL HEARING 11-21-13		NEEDS/PROBLEMS/COMMENTS:	
		DARLA and JESUS GRAJIOLA , Paternal Grandmother and Step-Grandfather, are Petitioners.		<u>Note:</u> This temp petition is for minor Jayda Esparza only. The other minor, Jason Villa, is in the care of another relative at this time per TDM held 9-16-13. A separate guardianship petition has been filed for Jason by Enrique Villa that is set for hearing on 11-21-13 (no temp was requested for Jason).	
	Aff.Sub.Wit.	Father: JOE MANUEL ESPARZA		<p>1. Petitioner filed Declaration of Due Diligence regarding attempts to contact the mother. If diligence is not found, need notice pursuant to Probate Code §2250(e).</p> <p>2. Need proof of service of Notice of Hearing with a copy of the temp petition at least five court days prior to the hearing per Probate Code §2250(e) or consent and waiver of notice or declaration of due diligence on: - Joe Manuel Esparza (Father)</p>	
✓	Verified	Mother: YVONNE PACHECO			
	Inventory	- Declaration of Due Diligence filed 9-30-13			
	PTC	Paternal Grandfather: Manuel Esparza			
	Not.Cred.	Maternal Grandfather: Unknown			
	Notice of Hrg	Maternal Grandmother: Aurora Pacheco			
	Aff.Mail	Siblings: Jacob Navarez, Jayson Villa			
	Aff.Pub.	Petitioner states Jayda was removed by CPS from her home on 9-13-13 due to the living conditions and the fact that her grandmother where she was living is unable to give proper care and guidance. A copy of the Team Decision-Making Summary Report Permanency Planning dated 9-16-13 is attached to the general petition.			
	Sp.Ntc.				
	Pers.Serv.	X			
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
	9202				
✓	Order				
	Aff. Posting			Reviewed by: skc	
	Status Rpt			Reviewed on: 9-30-13	
✓	UCCJEA			Updates:	
	Citation			Recommendation:	
	FTB Notice			File 22 – Esparza & Villa	